



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper Number 10

In re application of :
Mohamed BOUZEKRI :
Serial No.: 09/610,343 :
Filed: July 3, 2000 :
For: Steel Sheet With Low :
Aluminum Content For :
Containers :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.144 received November 16, 2001 to request the Commissioner to review and withdraw the Restriction Requirement of June 19, 2001.

DECISION

In making a restriction requirement it is understood that the initial burden is on the Office to establish a *prima facie* case that: (a) the claimed inventions are independent or distinct and (b) there would be a serious (or undue) burden on the examiner if restriction is not required. See MPEP 803.

In this application the Examiner has required a restriction between Group I directed to a process of manufacturing a steel strip and Group II directed to a steel product. To justify the Examiner's burden of establishing distinctness he has asserted that the steel product of Group II could be produced by a materially different process utilizing ultra-low C steel.

As correctly pointed out by the applicant in his response to the restriction requirement "The carbon content of the claimed steel strip and that of the steel strip used in the claimed process are exactly the same. Accordingly, the claimed steel strip cannot be made by a process with ultra-low C steel. Therefore the Examiner has not met his burden to establish that Groups I and II are distinct.

The Examiner responded that applicant "did not submit a clear admission that the unpatenability of Group I invention would imply the unpatentability of the Group II. In re Lee, 199 USPQ 108 (Cmr. Pats. 1978)." There is no requirement in In re Lee for applicant to make such a submission.

The petition is GRANTED.

A handwritten signature in black ink, appearing to read "Richard V. Fisher". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Richard Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Va. 22202